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8

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2008-181

13 **LEAH JAEI BAKER**
14 589 Micheletos Way
Manteca, CA 95336

A C C U S A T I O N

15 Registered Nurse License No. 602760

16 Respondent.
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18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the
21 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
22 Affairs.

23 2. On or about July 26, 2002, the Board issued Registered Nurse License
24 Number 602760, to Leah Jael Baker ("Respondent"). The license will expire on
25 May 31, 2008, unless renewed.

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1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 2750 provides, in
3 pertinent part, that the Board may discipline any licensee, including a licensee holding a
4 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
5 2750) of the Nursing Practice Act.

6 4. Code section 2764 provides, in pertinent part, that the expiration of a
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
8 against the licensee or to render a decision imposing discipline on the license. Under Code
9 section 2811(b), the Board may renew an expired license at any time within eight years after the
10 expiration.

11 **STATUTORY PROVISIONS**

12 5. Code section 2761(a) states, in pertinent part, that the board may take
13 disciplinary action against a certified or licensed nurse or deny an application for a certificate or
14 license for unprofessional conduct.

15 6. Code section 2762 states:

16 In addition to other acts constituting unprofessional conduct within the
17 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
for a person licensed under this chapter to do any of the following:

18 (a) Obtain or possess in violation of law, or prescribe, or except as
19 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
himself or herself, or furnish or administer to another, any controlled substance as
20 defined in Division 10 (commencing with Section 11000) of the Health and
Safety Code or any dangerous drug or dangerous device as defined in Section
21 4022.

22 7. Health and Safety Code section 11173(a), states:

23 No person shall obtain or attempt to obtain controlled substances, or
procure or attempt to procure the administration of or prescription for controlled
24 substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
concealment of a material fact.

25 8. Health and Safety Code section 11154(b), states:

26 No person shall knowingly solicit, direct, induce, aid, or encourage a
27 practitioner authorized to write a prescription to unlawfully prescribe, administer,
dispense, or furnish a controlled substance.

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2 **COST RECOVERY**

3 9. Code section 125.3 provides, in pertinent part, that the Board may request
4 the administrative law judge to direct a licentiate found to have committed a violation or
5 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
6 and enforcement of the case.

7 **DRUGS**

8 10. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate, also
9 known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and
10 Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.

11 11. "Ativan," a brand of lorazepam, is a Schedule IV controlled substance as
12 designated by Health and Safety Code section 11057(d)(13).

13 12. "Methadone" is a Schedule II controlled substance as designated by
14 Health and Safety Code section 11055(c)(14).

15 13. "Oxycodone" is a Schedule II controlled substance as designated by
16 Health and Safety Code section 11055(b)(1)(N).

17 14. "Soma," a brand of Carisoprodol, is a Schedule IV controlled substance as
18 designed by Health and Safety Code section 11057.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Obtained Controlled Substances)**

21 15. Respondent is subject to discipline under Code section 2761(a), on the
22 grounds of unprofessional conduct as defined in Code section 2762(a), in that between 2001
23 and 2005, while a licensed registered nurse, Respondent did the following:

24 a. Obtained Vicodin, Oxycodone, Ativan, Soma, and Methadone, controlled
25 substances, by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material
26 fact in violation of Health and Safety Code section 11173(a), by failing to disclose controlled
27 substances being prescribed to her by various physicians simultaneously.

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3 b. Obtained Vicodin, Oxycodone, Ativan, Soma, and Methadone, controlled
4 substances, by soliciting, directing, inducing, aiding, or encouraging a practitioner authorized to
5 write prescriptions to furnish controlled substances, as defined in Health and Safety Code section
6 11154(b).

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SECOND CAUSE FOR DISCIPLINE

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(Furnished To Another A Controlled Substance)

9 16. Respondent is subject to discipline under Code section 2761(a), on the
10 grounds of unprofessional conduct as defined in Code section 2762(a), in that between
11 2001 and 2005, while a licensed registered nurse, Respondent furnished to another, Soma and
12 Vicodin, controlled substances.

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THIRD CAUSE FOR DISCIPLINE

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(Dangerous Use of Alcohol)

15 17. Respondent is subject to discipline under Code section 2761(a) on the
16 grounds of unprofessional conduct as defined in Code section 2762(b), in that on or about
17 May 8, 2007, and May 16, 2007, Respondent used alcoholic beverages to an extent or in a
18 manner dangerous or injurious to herself and the public by driving while under the influence of
19 alcohol and/or drugs.

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PRAYER

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WHEREFORE, Complainant requests that a hearing be held on the matters
22 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 602760,
24 issued to Leah Jael Baker;

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2. Ordering Leah Jael Baker to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: 12/5/07

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Accusation (kdg) 4/18/07

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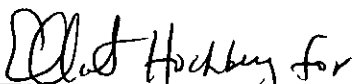
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RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant